

Volume 9, Issue 2

April 2005

June 2005

# West Virginia Board of Medicine

## Quarterly Newsletter



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### 2005 LEGISLATIVE UPDATE

**Senate Bill 737** is effective July 8, 2005. The bill establishes a time limit for licensing boards to issue a status report and a final ruling on complaints, contains an exception, and authorizes licensing boards to suspend and revoke licenses when a licensee cannot be located.

Currently, the Board of Medicine has two years to investigate a complaint. Senate Bill 737 reduces the time to eighteen months unless the complainant and the Board agree in writing to extend the time for the final ruling. Also, within six months of the complaint being filed a status report must be sent to the complainant.

If after due diligence the Board is unable to locate a licensee within sixty days of a complaint and notice of hearing being filed, the Board may suspend the license without holding a hearing. If the Board is still unable to locate the licensee after the suspension, then the Board may revoke the license without hearing.

**Committee Substitute for House Bill 2371** is effective on July 8, 2005. The bill relates to collaborative pharmacy practice agreements between physicians and pharmacists, authorizing pharmacists to provide drug therapy management, and grants joint rule making authority to the Board of Medicine, Board of Osteopathy, and Board of Pharmacy, with the help of a fourteen member advisory committee.

Collaborative pharmacy practice agreements are allowed in hospital, nursing home, and medical school settings as well as the hospital community and ambulatory care clinics. Up to five pilot project sites in the community based pharmacy setting which meet the requirements established by rule shall be jointly selected by the Boards of Medicine, Osteopathy, and Pharmacy. These pilot project arrangements end on July 1, 2008, unless extended by law.

Pharmacists who participate in collaborative pharmacy agreements must meet certain qualifications, including having at least one million dollars of professional liability insurance coverage.

**Committee Substitute for House Bill 3174**, also effective July 8, 2005, permits expressions of sympathy, apology, condolence or compassion made by a healthcare provider to a patient or relatives or representatives of the patient without allowing such statements to be admissible as evidence of admitting liability.

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## **EXECUTIVE DIRECTOR RONALD D. WALTON RETIRING**

After more than twenty two years of dedicated service as Executive Director of the West Virginia Board of Medicine, Ronald D. Walton is retiring, effective July 15, 2005. Beginning July 18, 2005, the Board expects that he will, on a temporary basis, assist the Board in conducting the Board's business during the transitional period as the Board searches for a new Executive Director.

Though change is a fundamental part of life, this retirement is especially difficult for the Board and the staff. Ron is a unique, special person, with good judgement and extensive knowledge, who has consistently and loyally given his all in carrying out the Board's duties of protecting the public interest. He will be sorely missed. We wish him nothing but the best in the years to come. His many friends are welcome to write remembrances of him for the Newsletter.

### **\*\*\*NOTICE\*\*\***

**We have received for publication the following "updated memorandum with more clarification" from the West Virginia Board of Pharmacy:**

Please find enclosed an interim policy statement issued by the DEA on November 16, 2004, which clarifies a misstatement made in an August 2004 FAQ published on its Office of Diversion Control website.

The clarification states: "No prescription for a controlled substance in Schedule II may be re-filled." 21 U.S.C. 829(a). "For a physician to prepare multiple prescriptions on the same day with instructions to fill on different dates is tantamount to writing a prescription authorizing re-fills of a Schedule II controlled substance. To do so conflicts with one of the fundamental purposes of section 829(a)."

Therefore, according to DEA officials **prescribers may no longer write multiple Schedule II prescriptions on the same day with instructions to fill at a later date and dispensers may no longer accept such prescriptions.** If a patient presents multiple scripts dated the same day, then the pharmacist would have the knowledge that this has been done and should inform the patient they cannot fill the subsequent scripts and the patient needs to contact their doctor to reissue a new script at a later date. If only one prescription is presented with a notation that it should not be filled until a later date and that is within 90 days of the date issued, then a pharmacist may fill the prescription.

This "clarification" by the DEA will actually cause a lot of confusion until prescribers are aware of the limitations. It will also create a hardship for some patients for whom such a mechanism of prescribing served their legitimate needs and posed no risk of diversion or abuse.

The information is being sent to the licensing boards of the prescribers so they can inform their licensees. Although this is a federal regulation, it will be enforced by both federal and state enforcement personnel.



## BOARD MEMBER PROFILE

### Badshah J. Wazir, M.D., F.A.C.C.

Dr. Badshah J. Wazir was appointed to the Board of Medicine in September, 2004, by then Governor Wise. He is a member of the Complaint Committee and the Ad Hoc Committee on Americans with Disabilities Act.

Dr. Wazir was educated at the Liaquat Medical College, University of Sind in Pakistan, graduating in 1971. His training took place at the Beckley Appalachian Regional Hospital, in Beckley, West Virginia, the Saint Francis Medical Center in Trenton, New Jersey, and the Deborah Heart Lung Center in Brown Mills, New Jersey, where he had his Fellowship in Cardiology. Since completing his Fellowship in 1982, Dr. Wazir has been in private practice and founded the five member group, South Charleston Cardiology Associates, in South Charleston, West Virginia.

He enjoys privileges at the Charleston Area Medical Center and Thomas Memorial Hospital and is a Diplomate of the American Board of Internal Medicine and is Board Certified in Cardiovascular Disease. Dr. Wazir is a member of the American College of Cardiology, the American College of Chest Physicians, and the American Society of Nuclear Medicine.

Dr. Wazir was the recipient of the 2003 Legacy of Life award given by AHA (American Heart Association). That same year he also received the Distinguished West Virginian award given by Governor Wise.

In his "down time," Dr. Wazir likes to spend time at home with his family. He has been married to his wife, Karen, for 25 years and he is the proud father of six children—five daughters and a son. His hobbies include exercising, hunting, and fishing.

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## AVAILABILITY OF SPECIAL VOLUNTEER MEDICAL LICENSES

The Board may issue a Special Volunteer Medical License to a retiring or retired physician without payment of fees, and civil immunity is provided for voluntary services rendered to indigent people, as long as the clinic where the physician will be providing the services has a written agreement with the physician to render the services and provided as well that the clinic maintains liability coverage of not less than one million dollars per occurrence.

These licenses are issued on an annual basis. Fifteen (15) people in West Virginia currently hold a Special Volunteer Medical License. The application is a simple one and the Special Volunteer Medical License is free. If you are interested in obtaining more information, contact the Board's Licensure Analyst, Crystal Lowe at (304)558-2921, Extension 221.



## ELECTION OF LEE E. SMITH, M.D., AS FEDERATION CHAIR

Lee E. Smith, M.D., is the Chair of the Federation of State Medical Boards of the United States, Inc., for 2005—2006. As a result of the increased responsibilities he has shouldered in this prestigious position, he has resigned as Chair of the Board's Complaint Committee and is no longer a member of that Committee. We thank Dr. Smith for his years of dedicated service on the Committee and as Chair.

Carmen R. Rexrode, M.D., has been appointed Chair of the Complaint Committee by Dr. Georges, President of the Board.

## LICENSURE SUSPENSION UPDATE

On June 30, 2005, 70 medical doctors and no podiatrists were notified that their licenses were suspended for failure to notify the Board that required continuing medical/podiatric education had been obtained. Many of the suspensions occurred because of a failure of the practitioner to notify the Board of a change of address.

***REMINDER: Please be aware that you must notify the Board of any change of address in order that you receive important notices from the Board. There is a change of address form on page 8 of this Newsletter.***

### West Virginia Board of Medicine Board Members

Angelo N. Georges, M.D., President  
Wheeling

Carmen R. Rexrode, M.D., Vice President  
Moorefield

Catherine Slemple, M.D., M.P.H., Secretary  
Charleston

R. Curtis Arnold, D.P.M.  
South Charleston

Rev. Richard Bowyer  
Fairmont

Ms. Doris M. Griffin  
Martinsburg

M. Khalid Hasan, M.D.  
Beckley

J. David Lynch, Jr., M.D.  
Morgantown

Vettivelu Maheswaran, M.D.  
Charles Town

Leonard Simmons, D.P.M.  
Fairmont

Lee Elliott Smith, M.D.  
Princeton

John A. Wade, Jr., M.D.  
Point Pleasant

Badshah J. Wazir, M.D.  
South Charleston

## FOR YOUR INFORMATION

*The Attorney General of the State of West Virginia, Darrel McGraw, was one of thirty attorneys general who signed the following January 19, 2005, letter to the Administrator of the Drug Enforcement Administration in Alexandria, Virginia:*

Dear Ms. Tandy:

We, the undersigned Attorneys General, write to express our concern about recent DEA actions with respect to prescription pain medication policy and to request a joint meeting with you. Having consulted with your Agency about our respective views, we were surprised to learn that DEA has apparently shifted its policy regarding the balancing of legitimate prescription of pain medication with enforcement to prevent diversion, without consulting those of us with similar responsibilities in the states. We are concerned that state and federal policies are diverging with respect to the relative emphasis on ensuring the availability of prescription pain medications to those who need them.

Subsequent to DEA endorsement of the 2001 Joint Consensus Statement supporting balance between the treatment of pain and enforcement against diversion and abuse of prescription pain medications, the National Association of Attorneys General (NAAG) in 2003 adopted a Resolution Calling for a Balanced Approach to Promoting Pain Relief and Preventing Abuse of Pain Medications. Both these documents reflected a consensus among law enforcement agencies, health care practitioners, and patient advocates that the prevention of drug abuse is an important societal goal that can and should be pursued without hindering proper patient care.

The Frequently Asked Questions and Answers for Health Care Professionals and Law Enforcement Personnel issued in 2004 appeared to be consistent with these principles, so we were surprised when they were withdrawn. The Interim Policy Statement, "Dispensing of Controlled Substances for the Treatment of Pain" which was published in the Federal Register on November 16, 2004 emphasizes enforcement, and seems likely to have a chilling effect on physicians engaged in the legitimate practice of medicine. As Attorneys General have worked to remove barriers to quality care for citizens of our states at the end of life, we have learned that adequate pain management is often difficult to obtain because many physicians fear investigations and enforcement actions if they prescribe adequate levels of opioids or have many patients with prescriptions for pain medications. We are working to address these concerns while ensuring that individuals who do divert or abuse drugs are prosecuted. There are many nuances of the interactions of medical practice, end of life concerns, definitions of abuse and addiction, and enforcement considerations that make balance difficult in practice. But we believe this balance is very important to our citizens, who deserve the best pain relief available to alleviate suffering, particularly at the end of life.

We understand that DEA issued a "Solicitation for Comments on Dispensing of Controlled Substances for the Treatment of Pain" in the Federal Register yesterday. We would like to discuss these issues with you to better understand DEA's position with respect to the practice of medicine for those who need prescription pain medication. We hope that together we can find ways to prevent abuse and diversion without infringing on the legitimate practice of medicine or exerting a chilling effect on the willingness of physicians to treat patients who are in pain. And we hope that state and federal policies will be complementary rather than divergent.

Lynne Ross, Executive Director of NAAG, will contact you soon to arrange a meeting at a mutually agreeable time, hopefully in March when Attorneys General will be in Washington, DC to attend the March 14-16 NAAG Spring Meeting. We hope to meet with you soon.

Thank you.





# BOARD ACTIONS

## April 2005—June 2005



BORDEN, BRITT MICHAEL, M.D. – Flossmoor, IL (05/05/2005)

WV License No. 17645

Board Conclusion: Relating to a fraudulent misrepresentation in connection with an application for licensure and unprofessional, unethical conduct.

Board Action: License placed in INACTIVE status effective April 22, 2005; said license shall not be reactivated until Dr. Borden appears before the Licensure Committee of the Board and the Licensure Committee recommends that the Board grant him an active license and the Board does so; PUBLICLY REPRIMANDED for making a misrepresentation on his licensure renewal application.

BOSACK, DOUGLAS P., M.D. – Fairlea, WV (04/22/2005)

WV License No. 21789

Board Conclusion: The Board determined that Dr. Bosack violated the probationary requirements set forth in the December 10, 2004, Consent Order he entered into with the Board.

Board Action: The stay of revocation imposed by the Consent Order is terminated and dissolved effective May 27, 2005, at 12:01 a.m. Effective that day at that time, the license to practice medicine and surgery in the State of West Virginia of Dr. Bosack stands REVOKED.

BURKE, PAUL W., JR., M.D. – Parkersburg, WV (06/09/2005)

WV License No. 13039

Board Conclusion: Been or is unable to practice medicine with reasonable skill and safety to patients by reason of excessive use of alcohol.

Board Action: By THIRD AMENDED CONSENT ORDER dated June 9, 2005, Dr. Burke's May 2001 CONSENT ORDER; June 2002 AMENDED CONSENT ORDER; and May 2003 SECOND AMENDED CONSENT ORDER were amended so that Dr. Burke may assist at surgery, under certain conditions.

CHATTA, DILBAGH SINGH, M.D. – Pleasanton, CA (06/23/2005)

WV License No. 13447

Board Conclusion: Relating to unprofessional conduct.

Board Action: Suspended license was SURRENDERED effective June 17, 2005, and if at any time in the future he wishes to have a West Virginia license, he must appear before the Board's Licensure Committee and satisfy the Committee that he is in all respects capable of practicing medicine safely for patients and that there are no blemishes outstanding on his record.

CORONEOS, EMMANOUEL J., M.D. – Pittsburgh, PA (06/07/2005)

WV License No. 20507

Board Conclusion: Relating to unprofessional and unethical conduct.

Board Action: PUBLICLY REPRIMANDED for writing a note in a patient's medical chart prior to actually treating said patient on the date at issue.

JOHNS, JONATHAN PAUL, M.D. – Yakima, WA (06/14/2005)

WV License No. 20970

Board Conclusion: Relating to failing to practice medicine at an acceptable level.

Board Action: PUBLICLY REPRIMANDED for practicing medicine below the standard of care in this case. Dr. Johns shall enroll in and successfully complete twenty (20) hours of continuing medical education within six (6) months from the date of entry of the Consent Order.

LILLY, JOSIAH KENNETH, III, M.D. – Charleston, WV (06/14/2005)

WV License No. 11322

Board Conclusion: Relating to unprofessional conduct.

Board Action: PUBLICLY REPRIMANDED for his unprofessional conduct in violating patient privacy, although the conduct was unintentional.

MIRZA, HUMAYUN, M.D. – Houston, TX (04/28/2005)

WV License No. 20550

Board Conclusion: Relating to violating any provision of the Medical Practice Act or a rule or order of the Board; having his license to practice medicine in any other jurisdiction restricted or limited or otherwise acted against; and unprofessional and unethical conduct.

Board Action: License placed in a three (3) year period of PROBATION. Dr. Mirza shall at all times, for as long as he maintains a license to practice medicine in the State of West Virginia, have a third-party chaperone in the examination room with him while he is conducting any type of physical examination on a female patient, and Dr. Mirza must successfully complete forty (40) hours of continuing medical education in medical ethics and boundary issues within one (1) year from the entry of the Consent Order.



**BOARD ACTIONS**  
**April 2005—June 2005**  
**continued**



MORRIS, IRA ALAN, M.D. – Charleston, WV (06/27/05)

WV License No. 18377

Board Conclusion: Relating to conviction of a crime which is a felony, failure to perform a legal or statutory obligation placed upon a physician, and unprofessional conduct.

Board Action: License REVOKED effective July 9, 2005, but effective the date Dr. Morris is released from incarceration, said revocation is STAYED by the Board for a period of five (5) years, and Dr. Morris shall be placed on PROBATION immediately, for a period of five (5) years.

SIMPKINS, RODNEY MICHAEL, M.D. – Charleston, WV (05/09/2005)

WV License No. 15421

Board Conclusion: Relating to prescribing a controlled substance other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's professional practice, and relating to prescribing or dispensing a controlled substance for his immediate family.

Board Action: License placed in INACTIVE status effective April 15, 2005; said license shall not be reactivated until Dr. Simpkins appears before the Licensure Committee of the Board and the Licensure Committee recommends that the Board grant him an active license and the Board does so.

**WEST VIRGINIA BOARD OF MEDICINE**  
**2005 MEETINGS**

July 11  
September 12  
November 14

ALL BOARD MEETINGS BEGIN AT 9:00 A.M.

<b>Ext #                      Staff of the West Virginia Board of Medicine</b> <b>(304) 558-2921</b>		
227	<b>Ronald D. Walton, M.A.</b>	Executive Director
214	<b>Deborah Lewis Rodecker, J.D.</b>	Counsel
215	<b>Stephen D. Greer, II, J.D.</b>	Prosecuting Attorney
212	<b>M. Ellen Briggs</b>	Administrative Assistant to the Executive Director
222	<b>Leslie A. Higginbotham</b>	Paralegal/Investigator
210	<b>Charlotte A. Jewell</b>	Receptionist/Physician Assistant Coordinator
216	<b>Michael R. Lilly</b>	Information Systems Coordinator
221	<b>Crystal Lowe</b>	Licensure Analyst
211	<b>Janie Pote</b>	Administrative Assistant to Legal Department
224	<b>Pennie Price</b>	Verification Coordinator
220	<b>Deb Scott</b>	Fiscal Officer
213	<b>Sheree Smith</b>	Complaints Coordinator

**CHANGE OF ADDRESS FORM**

WV License No: \_\_\_\_\_ Date of Change: \_\_\_\_\_

Name of Licensee: \_\_\_\_\_

**PLEASE CHECK ONLY ONE PREFERRED MAILING ADDRESS:**

(The preferred mailing address is the licensee's address of record, which is public information.)

(Note that telephone numbers are not considered public information.)

( ) Principal Office or Work Location \*ONLY CHECK ONE\* ( ) Home Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

*Mail completed form(s) to:***West Virginia Board of Medicine**

101 Dee Drive, Suite 103 • Charleston, WV 25311

***Fax copies not accepted.****By law, you must keep this office apprised of any and all address changes.***WV Board of Medicine**101 Dee Drive, Suite 103  
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**Watch for updates and changes.**